

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO. 393 OF 1989

State of Maharashtra (The Special
Land Acquisition Officer). ... Appellant.

Versus.

Padu Ganpat Patil. ... Respondent.

Shri K.K.Tated, A.G.P. for the Appellant.

Shri S.M.Kamble for the Respondent.

ALONG WITH

FIRST APPEAL NO.1067 OF 1989

Padu Ganpat Patil
(since deceased through LRs.)
1. Smt.Janabai Padu Patil.
2. Smt.Bamibai Rama Hudar.
3. Kana Padu Patil
4. Chandrakant Padu Patil
5. Smt.Bebibai Dattatraya Bhopy.
6. Dattatraya Padu Patil.
7. Smt.Gulab Keshav Jitekar
8. Ananta Padu Patil.
9. Anil Padu Patil.
10.Santosh Padu Patil.
11. Gangaram Ganpat Patil.
 through their Power of Attorney'
 Prakash Vasudeo Deodhar,
 residing at Plot No.22, Middle
 Class Housing Society, Panvel,
 Raigad. Appellants.

Versus.

The Special Land Acquisition
Officer, Panvel. Respondent.

Shri S.M.Kamble for the Appellants.

Shri K.K.Tated, A.G.P. for the Respondent.

CORAM : ABHAY S. OKA, J.

DATED : 5th April, 2006.

ORAL JUDGMENT.

1. Heard the learned Advocates appearing for the parties. These are cross appeals filed by the State Government and the original Claimants taking exception to the impugned Judgment and Award dated 29th February 1988 passed by the learned Civil Judge, Senior Division, Raigad at Alibag in a Reference under section 18 of the Land Acquisition Act, 1894 (hereinafter referred to as "the said Act").

2. The acquisition is in respect of the plot of land situated at village Panvel, Taluka Panvel, District Raigad. Notification under section 4 of the said Act was issued on 3rd February 1970. The land was notified for acquisition for the purpose of development of satellite city of Navi Mumbai. The Land Acquisition Officer awarded compensation at the rate of Rs.1.50 per sq.meter. By the said impugned Judgment and Award the Reference Court has enhanced the Compensation by fixing the market value at Rs.15 per sq.meter.

3. The Appeal preferred by the State Government is for challenging the enhancement in the market value and the Appeal preferred by the Claimant is for enhancement of the market value awarded by the Reference Court.

4. My attention has been invited to a decision of the Division Bench of this Court dated 25th/26th February 1993 in First Appeal No.754 of 1986 (Nama Padu Hudar v/s. The State of Maharashtra) with the other connected First Appeals. In the said decision, the Division Bench dealt with the Appeals arising out of Awards made under section 18 of the said Act. The Awards were relating to the lands acquired from the villages Panvel and Kamothe, Taluka Panvel, District Raigad. The lands which were the subject matter of the Appeals were also notified for the same public purpose of development of satellite city of Navi Mumbai and notifications under section 4 of the said Act in respect of the said lands were also issued on 3rd February 1970. The Division Bench considered the location of the said two villages and the nature of lands which were acquired from the said two villages. It is not in dispute that large number of lands were acquired from the said two villages and other adjoining villages from Taluka Panvel, District Raigad, for the same public purpose.

The Division Bench divided the lands subject matter of the Appeals into five categories. The said categories read as under:

<u>Group No.</u>	<u>Rate granted.p.s.m.</u> <u>Rs.Ps.</u>
I. Abutting the Highway.	25.00
II. Within 800 meters.	23.00
III. Abutting Kamothe Z.P.Road to 1200 meters.	22.00
IV-A. 800 Mtrs.to 2200 Mtrs. from Bombay-Pune Highway.	20.00
IV-B. 200 Mtrs.from Z.P.Road and Gaothan to 640 Mtrs. from Z.P.Road and Gaothan.	20.00

The rates of the market value fixed by the Division Bench are mentioned against the respective categories. It is not disputed that the decision of the Division Bench has attained finality. My attention has been invited to a recent decision of the Supreme Court dated 6th March 2006 in Civil Appeal No.1557 of 2006 (Shantadevi Hariram Ruparel v/s. Land Acquisition officer and another). I find that the method adopted by the Division Bench in the said decision of dividing the lands in five different belts has been expressly approved by the Apex Court and in fact in the case before the Apex court a direction was issued to fix the

market value of the acquired lands in terms of the said direction of the Division Bench. In view of this decision of the Apex Court, there is no reason why the decision of the Division Bench should not be applied to this case.

5. The evidence on record in the present case shows that the acquired land was situated at a distance of 1520 meters from the Mumbai-Pune Highway. Thus the acquired land falls in the category IVA fixed by the Division Bench. The market value of the acquired land will have to be fixed at the rate of Rs.20/- per sq.meter accordingly.

6. The learned A.G.P. Shri Tated submitted that a deduction will have to be made on account of the development charges as the acquired land was undeveloped land on the relevant date. Though the position of law is well settled, in the facts of this case, it must be noted that the Division Bench has fixed the market value at the rate of Rs.20/- per sq.meter without making any deduction on account of the development charges and the said decision is arrived at after considering the nature and location of the acquired lands. In the case of Shantadevi (supra) the Apex Court has given a direction

to award compensation at the rates fixed by the Division Bench and therefore, the prayer made by Shri Tated cannot be acceded to.

7. Hence the Appeal preferred by the Claimant will have to be allowed and the Appeal preferred by the State will have to be dismissed.

8. Hence the following order is passed:

- i) First Appeal No.393 of 1981 is dismissed. The State Government is directed to pay costs of the Appeal to the Respondent.
- ii) First Appeal No.1067 of 1989 is partly allowed. The impugned Judgment and Award is modified by directing that the original Claimants will be entitled to the market value at the rate of Rs.20/- per sq.meter together with all statutory benefits under section 23(1-A), 23(2) and 28 of the said Act. The Claimant will be entitled to proportionate costs from the State Government of the reference proceedings. The Reference Court will calculate the

amount of compensation payable to the Claimants after notice to the State Government. This exercise will be completed within a period of four months from the date of receipt of the writ of this order from this Court.

- iii) The Appellant/Claimant will be entitled to proportionate costs of First Appeal No.1069 of 1989 from the Respondent-State Government.

Judge.